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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:)	BK-S-06-10725 LBR
)	BK-S-06-10726 LBR
USA COMMERCIAL MORTGAGE COMPANY,)	BK-S-06-10727 LBR
)	BK-S-06-10728 LBR
Debtor.)	BK-S-06-10729 LBR

Chapter 11

USA CAPITAL REALTY ADVISORS, LLC,)
)
Debtor.)

USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC,)
)
Debtor.)

USA CAPITAL FIRST TRUST DEED FUND, LLC,)
)
Debtor.)

**MOTION TO WITHDRAW AS
 COUNSEL OF RECORD FOR
 FRANK RAYMOND LEE**

USA SECURITIES, LLC,)
)
Debtor.)

Hearing Date: October 30, 2006
 Hearing Time: 9:30 a.m.

Affects:

- | | | |
|--------------------------|--|---|
| X | All Debtors |) |
| <input type="checkbox"/> | USA Commercial Mortgage Company |) |
| <input type="checkbox"/> | USA Securities, LLC |) |
| <input type="checkbox"/> | USA Capital Realty Advisors, LLC |) |
| <input type="checkbox"/> | USA Capital Diversified Trust Deed Fund, LLC |) |
| <input type="checkbox"/> | USA First Trust Deed fund, LLC |) |

COMES NOW, the law firm of Goldsmith & Guymon, P.C., and hereby moves this Court for an

1 order granting the undersigned permission to withdraw as counsel of record for Creditor Frank Raymond
2 Lee. This Motion is made and based upon the accompanying Memorandum of Points and Authorities,
3 the affidavit of Damon K. Dias, Esq. attached hereto as Exhibit A, all pleadings and papers on file herein,
4 and the oral argument of counsel upon hearing, if any.

5 DATED this 28 day of September, 2006.

6 **GOLDSMITH & GUYMON, P.C.**

7 

8 **DAMON K. DIAS, ESQ.**

9 Nevada Bar No. 8999

10 2055 N. Village Center Circle

11 Las Vegas, Nevada 89134

12 **Attorneys for Frank Raymon Lee**

13 **MEMORANDUM OF POINTS AND AUTHORITIES**

14 **I. FACTS**

15 Mr. Lee is a creditor in the USA Capital bankruptcy proceedings. He invested in one or more of
16 the Trust Deed funds. He retained the undersigned as counsel to assist him in the above referenced
17 bankruptcy, but has since determined that he no longer requires the assistance of counsel and wishes to
18 proceed on his own. Based upon this assertion by the client, and after disclosing to client the need to file
19 proof of claim and otherwise remain diligent in this matter, the undersigned requests that this Court issue
20 an Order permitting the undersigned to withdraw from the representation at this time.

21 **II. ARGUMENT**

22 A. **THIS COURT HAS AUTHORITY TO ENTER AN ORDER ALLOWING AN**
23 **ATTORNEY TO WITHDRAW AS ATTORNEY OF RECORD FOR A PARTY WHEN**
24 **THE REPRESENTATION WILL NOT DELAY THE MATTER, AND WHEN THE**
25 **WITHDRAWAL WILL NOT CAUSE MATERIAL ADVERSE EFFECT ON THE**
26 **CLIENT.**

27 Pursuant to Local Rule IA 10-6 of the Local Rules of Practice of the United States District Court
28 for the District of Nevada, counsel must seek leave of the court to withdraw, and such relief may come
after notice to the client and opposing counsel. The rule states that withdrawal may not be granted if
undue delay would result. In the instant case, Creditor is not involved in litigation directly with Debtor
at this time, there are no hearings involving Creditor on calendar as of the time of filing, and furthermore,

1 given the nature of this case, there are many investors not represented by counsel and to allow the
2 undersigned to withdraw will not contribute to additional delay not otherwise foreseeable. Therefore, no
3 undue delay will be caused by an order granting this Motion.

4 Nevada Rule of Professional Conduct 1.16(b) states that "A lawyer may withdraw from
5 representing a client if (1) withdrawal can be accomplished without material adverse effect on the
6 interests of the client." In the instant matter, Creditor has requested that the undersigned withdraw, as
7 he is semi-retired and wants to pursue the action on his own. Counsel has informed Creditor that he must
8 prepare and file a Proof of Claim to protect his interests, and further that he must remain diligent in his
9 pursuit of his interests in this matter.

10 **WHEREFORE**, for the above stated reasons and the decision of Creditor, the law firm of
11 Goldsmith & Guymon, P.C. hereby requests that this Court enter an order allowing it to withdraw as
12 counsel of record for creditor Frank Raymond Lee.
13

14 DATED this 28 day of September, 2006.
15

16 **GOLDSMITH & GUYMON, P.C.**

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